

An Act
Concerning the Militia
of the State of Indiana

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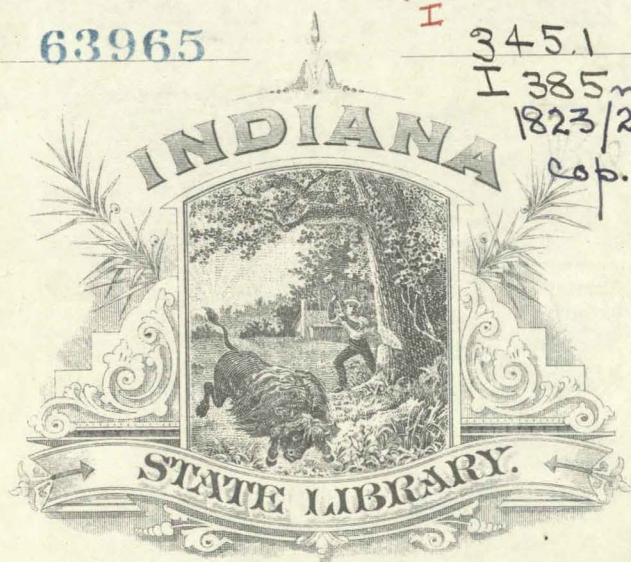
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January 15, 1914.

W. A. Burford. Lith. 1868.

ACT
ING THE MILITIA,

OF THE

STATE OF INDIANA.

PASSED AT THE EIGHTH SESSION OF THE GENERAL ASSEMBLY.

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1824.

MILITIA LAW.

AN ACT to regulate the Militia of the State of Indiana.

Approved—January 20, 1824.

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SEC. 1. *Be it enacted by the General Assembly of the state of Indiana,* That each and every able bodied male citizen of the age of eighteen years, and under the age of forty-five years, except those hereinafter excepted, shall, severally and respectively, be enrolled in the militia of the state of Indiana, by the captain or commanding officer, within the bounds of whose company such persons may reside, and every such person so enrolled, shall provide himself with a good rifle, musket or fusee, with a cartouch box to contain at least twenty-four cartridges, suited to the bore of his musket, or fusee, or a pouch and powder horn, to contain twenty-four balls suited to the caliber of his rifle, and one quarter of a pound of powder; and every person shall appear so armed and equipped, on all days of muster directed by this act, and every person, who shall provide himself with arms and accoutrements, or shall uniform and equip himself, agreeably to the provisions of this act, shall hold the same exempt from all impressments, suits, distress, executions or sales for debts, damages, or the payment of taxes, any law to the contrary notwithstanding.

Who enrolled. How armed. Arms exempt.

SEC. 2. The militia of the state of Indiana shall be divided into divisions and brigades, as follows, to wit: The counties of Gibson, Pike and Dubois, shall form the second brigade; and the counties of Vanderburgh, Warrick and Po-

Formation of divisions & brigades.

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January 15, 1814.

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sey shall form the twelfth brigade; and the second and twelfth brigades shall form the first division. The counties of Harrison and Crawford shall form the third brigade; and the counties of Clark and Eloyd shall form the eighth brigade; and the counties of Perry and Spencer shall form the ninth brigade; and the third, eighth and ninth brigades shall form the second division. The counties of Franklin, Decatur, Rush and Union shall form the sixth brigade; and the counties of Wayne, Randolph, Fayette, Allen and Henry shall form the thirteenth brigade; and the sixth and thirteenth brigades shall form the third division. The county of Washington shall form the fourth brigade; and the counties of Orange, Monroe, Lawrence and Morgan shall form the seventh brigade; and the counties of Jackson, Bartholomew, Johnson, Hendricks, Hamilton, Madison, Shelby and Marion shall form the fourteenth brigade; and the fourth, seventh and fourteenth brigades shall form the fourth division.—The counties of Jefferson, Ripley, Jennings and Scott shall form the fifth brigade, and the counties of Dearborn and Switzerland shall form the tenth brigade; and the fifth and tenth brigades shall form the fifth division. The counties of Knox, Daviess and Martin shall form the first brigade; and the counties of Sullivan, Vigo, Greene and Owen shall form the eleventh brigade; and the counties of Putnam, Parke, Vermillion and Montgomery the sixteenth brigade; and the first, eleventh and sixteenth brigades shall form the sixth division, subject however to such alteration as may be deemed necessary by the commander in chief, who shall have power to alter the boundaries of, or add to the old, or establish new divisions or brigades.

Corps, of
what to con-
sist.

SEC. 3. Each division shall consist of not less than two nor more than three brigades, and each brigade shall consist of not less than three nor more than six regiments; each regiment shall

consist of two battalions; each battalion of not less than four nor more than six district companies; each company shall consist of not less than forty nor more than one hundred rank and file: *Provided*, That in very detached settlements, a company may be formed of twenty-five men, under the direction of the field officers of the proper regiment: *Provided also*, That the field officers of any brigade, when convened for that purpose, may, if they think the convenience of such brigade requires it, set off a regiment to consist of not less than six district companies.

Field offi-
cers of bri-
gade, set
off reg't of 6
companies.

SEC. 4. The militia of this state shall be officered as follows, to wit: To each division, there shall be one major general, who shall be allowed one division inspector, with the rank of lieutenant colonel; also two aid-de-camps and one quartermaster, with the rank of major. To each brigade there shall be one brigadier general, who shall be allowed one brigade inspector, with the rank of major, & one aid-de-camp, and one quartermaster, each to hold the rank of captain. To each regiment there shall be one colonel, one lieutenant colonel, and one major. To each company there shall be one captain, one lieutenant, one ensign, four sergeants, four corporals, one drummer and one fifer. The regimental staff shall consist of one surgeon, to rank as captain; one adjutant, one quartermaster, one paymaster, one surgeon's mate, and one judge-advocate, to rank as lieutenants; also one sergeant major, one quartermaster sergeant, one drum major, one fife-major, one forage master and one provost marshal; all of which officers shall be appointed by the officers commanding such division, brigade or regiment, (as the case may be) at the time such appointment may be made. The commander in chief, shall be entitled to two aid-de-camps, and shall appoint one adjutant general, and one quartermaster general, all which officers shall rank as colonels.

How officer-
ed.

Bounds of
reg'ts how
changed.

Bounds of
comp's how
changed.

Rank of
officers.

Elections
for com. of
officers.

SEC. 5. The brigadier general, together with the field officers of each brigade, or a majority of them, when met for that purpose under the direction of the brigadier general, shall have power to alter the bounds of regiments, and set off new regiments in their respective brigades; all of which proceedings shall be recorded in a book to be kept for that purpose by the brigade inspector. The field officers and captains, or a majority of them, when met for that purpose, shall have power to alter company bounds, or set off new company districts, in their respective regiments, or to consolidate companies, or attach light companies to the respective companies from which the same may have been taken, when such companies shall not have uniformed and equipped themselves within a year from the time such company may have been organized, or when in the opinion of the board, the convenience of the regiment requires it; all of which proceedings shall be recorded in the regimental book, by the judge advocate.

SEC. 6. All commissioned officers shall take rank agreeably to the dates of their respective commissions; and when two or more commissions are of the same date and grade, the rank shall be determined by lot, to be drawn, if a company officer, in the presence of the colonel, and if a field officer, in the presence of the brigadier general, and if a brigadier general, in the presence of the major general, and if a major general, it shall be drawn by the adjutant general in the presence of the commander in chief.

SEC. 7. When a new company shall be set off, or vacancies happen among the officers of any company, it shall be the duty of the commandant of the regiment, after being informed thereof, to cause the enrolled militia of such company, by written notice set up in at least three of the most public places within such company district, at least ten days previous to the day of election, to be notified of the same, directing them to meet at

a time and place specified, as near the centre of the company as may be convenient, stating the officers to be elected: and the qualified electors of such district, shall meet at the time and place appointed, and proceed to choose three judges of the election, and two clerks by a majority of the voters present: and one of the judges, so chosen, shall administer to the other two judges and clerks, and either of the other two judges to him, the following oath or affirmation, to wit: "You do solemnly swear (or affirm,) that you will faithfully and impartially discharge your duty as judges and clerks of the present election;" the judges shall then proceed to receive the ballots from the electors, between the hours of ten o'clock A. M., and four o'clock P. M. of said day of election; and the clerk shall write the name of each voter in a book, to be prepared for that purpose, and at the close of the election, the judges and clerks shall count the ballots and declare to the people present, the person or persons having the highest number of votes, duly elected. When any company shall neglect or refuse to elect their officers, as herein directed, such company may be attached to other companies by the next regimental court of assessment, or by the commandant of the regiment, until such court shall meet.

SEC. 8. Whenever the office of colonel, lieutenant colonel, or major shall become vacant in any regiment, it shall be the duty of the brigadier general, on being informed thereof, to notify the officer highest in rank, within the bounds of said regiment, of such vacancy, directing him forthwith to notify the commanding officers of companies, who shall without delay notify their companies, by written notices set up in three of the most public places in their respective company districts, fifteen days previous to the day of election, directing the qualified voters to attend, at a time and place specified therein, for the pur-

Judges chosen.

Ballots, when received.

Vacancies in the office of col. &c. how filled.

Ballots
when taken.

Brig. gen.
attend elec-
tions in new
reg'ts.

Vacancies
in command
of brigades,
how filled.

pose of electing a colonel, lieutenant colonel, or major, (as the case may be) which time and place shall be appointed by the brigadier general; and when the electors shall meet, they shall choose judges and clerks in the manner prescribed in this act, for choosing those officers in company elections, who, when qualified, shall proceed to receive the ballots between the hours of ten o'clock A. M., and six o'clock P. M. of the day of election; and it shall be the duty of the said clerks, to write the names of the electors in a book to be prepared for that purpose, and at the close of the election, the judges shall count the ballots, and make out a statement of votes given, which, together with the poll book, shall be by the judges deposited with the judge advocate of the regiment. When a new regiment in any brigade may be set off, the commandant of the brigade shall attend the election of field officers, and where there may not be organized companies in any new regiment, he shall have power to direct the method of notifying the militia composing said new regiment, of the time and place of holding elections of field officers to command the same.

SEC. 9. When the office of brigadier general shall become vacant, the major general, or in case the office of major general is vacant, the adjutant general shall issue orders to the different commandants of regiments in such brigade, directing them to notify the commissioned officers of their respective regiments, to meet at the usual place of mustering their regiments, on a day specified in the order, which day shall be the same in each regiment, and at least twenty days after the notifications to the commissioned officers shall be given; and the commissioned officers in their respective regiments shall meet and choose judges and clerks, from the qualified electors at such election, who shall take the oath prescribed in the seventh section of this act, after which time they shall proceed to receive the ballots in the same

manner, and be governed in every respect, as is directed for conducting the election of field officers.

SEC. 10. When the office of major general shall become vacant, the adjutant general shall issue orders to the different brigadier generals of the division, directing an election for major general; who shall direct elections to be holden in the different regiments of their respective brigades on a day specified by the adjutant general, which election shall be held and conducted in the same manner as is directed for the election of brigadier generals in this act.

SEC. 11. In all elections for militia officers, when two or more persons shall have an equal and the highest number of votes, the election shall be determined by lot, to be drawn, if it is the election of a field or company officer by the judges present, or if it is the election of a general officer to be drawn by the adjutant general, in the presence of the commander in chief. Elections, when determined by lot.

SEC. 12. When the office of captain, lieutenant or ensign shall become vacant, by promotion, resignation or otherwise, on the day of election, the judges of said election shall give notice thereof, and the electors shall immediately proceed by ballot to elect a person to fill such vacancy. Vacancies by promotion, &c. how filled.

SEC. 13. All elections shall be certified by the judges thereof, and attested by the clerks. The certificate of election for company officers, shall be directed to the commandant of the regiment, who shall deliver the same, together with a copy of the order for holding the election, to the brigadier general: and the certificate of election in the different regiments for field officers, and for brigadier and major generals, shall be directed to the officer highest in command in each brigade respectively; and it shall be the duty of such brigadier general or officer highest in command, (after having retained such certificates of election ten days from the time of the election) to transmit Elections, how certified.

the same to the office of the adjutant general; and it shall be the duty of the adjutant general upon the receipt of such certificates of election, to lay the same before the Governor, who shall issue commissions accordingly.

Elections
for field of-
ficers, how
contested.

Summon
parties,
time and
place.

Elections
for com. of-
ficers, how
contested.

Elections of
Gen. offic's.
how con-
tested.

SEC. 14. If any elector shall choose to contest any election for field or company officers, who may have been proclaimed duly elected, he shall give notice thereof in writing to the commanding officer of the brigade, within ten days from the day on which the election was held, and shall in like manner, within the same time, notify the person or persons whose election he intends to contest, expressing the points, on which he means to rely, and the commandant of the brigade shall direct the brigade inspector, or such other person as he may appoint, if a field officer's election is contested, to summon the parties to meet at a time and place specified, before three or more field officers whom he may appoint for that purpose, who shall hear and determine the same, and report their decision in writing to the commandant of the brigade; which decision shall be final. If the election of a company officer shall be contested, the brigadier general shall direct the commanding officer of the proper regiment, to summon the parties by the adjutant, with three or more commissioned officers of the regiment in the same manner as is herein directed for the proceedings in contested elections, in the case of a field officer, and they shall proceed to hear and determine the case, and their decision shall be final. If the election of a general officer shall be contested, the person intending to contest the same, shall notify the Governor, within thirty days from the day of election, of his intention, in writing, and in like manner at the same time, notify the person whose election he intends to contest, expressing the points on which he means to rely, and the Governor shall thereupon issue an order appointing a time and place for trying such contested election,

and shall appoint five or more field officers, a majority of whom shall at the time specified, meet and determine the contest, and shall report their decision in writing, which shall be final.

SEC. 15. That in all cases where boards of officers shall be convened under the provisions of the fourteenth section of this act, they shall appoint a judge advocate, who shall administer an oath or affirmation to such officers, for the faithful discharge of their duties; and they are hereby authorized to issue subpoenas for any witness on behalf of the contestor, or the party whose election is contested, which subpoena shall be signed by the judge advocate and executed by the provost marshal, to be appointed by such board; and the judge advocate is hereby authorized to administer an oath to such witnesses in the case, and if such witness or witnesses shall refuse to obey such subpoena, he shall be reported by the judge advocate to the board of assessment for the regiment where such witness may reside, who shall be fined not less than three nor more than ten dollars, for such neglect or refusal. Witness
fined for
non attend-
ance.

SEC. 16. It shall be the duty of the major generals, to receive from the adjutant general, copies of requisitions of men made by the Governor of the state, or general government upon his division; and shall, without delay, make a detail, on the brigades in his division, agreeably to the returns of the strength of each brigade, and shall issue orders to the commandants of brigades accordingly. Requisi-
tions on di-
vision.

SEC. 17. It shall be the duty of the brigadier general to receive from the major general or adjutant general, copies of requisitions on his brigade, and shall make a detail on the regiments in his brigade agreeably to the strength of the same, and give orders to the commandants of regiments accordingly. And it shall be the duty of the brigadier generals to appoint the days in the month of October in each year, on which the Requisi-
tions on
brigade.

Reg'l musters appointed by brig. gen.

militia of his brigade shall be mustered by regiments, and to notify the commanders of regiments thereof, on or before the fifteenth day of February in each and every year, and moreover to notify the major general of the time each regiment will be mustered.

Requisitions on regiments.

SEC. 18. Commandants of regiments shall receive of the brigadier general copies of requisitions made on their regiments, and shall make a detail on the several companies agreeably to the strength of the same, and give orders to the commandants of companies accordingly. They shall receive from the general of brigade written notices of the time of holding regimental musters, to which he shall add the time and place of holding battalion and regimental drill musters, together with the time and place of holding the court of assessment of fines, a copy of which he shall cause to be delivered to the commandants of companies on or before the first day of March annually; who shall add thereto the days and places of holding the company masters for the year, and deliver a copy thereof to the sergeants of their respective companies, on or before the fifteenth day of March, whose duty it shall be to deliver a copy thereof to each subaltern, non-commissioned officer, musician and private in the company, in which he or they belong, on or before the first day of April in each year, or leave a copy thereof at his or their usual place of abode: *Provided however*, That three days notice of the time and place of holding any muster shall be deemed a legal notice. *Provided also*, That if the brigadier general should fail to notify the commandants of regiments of the time of holding regimental musters within the time specified by law, the commandant of such regiment shall appoint his own regimental muster.

Notice of Bat. & reg'l drill, and court of assessment.

Company masters.

3 days notice of musters.

Regimental muster in October.

SEC. 19. There shall be in each and every year a regimental muster, at such time in the month of October, as the brigadier general shall

direct, when every field and staff officer, and all company officers, non-commissioned officers, musicians and privates, belonging to such regiment, shall attend, armed and equipped as the law directs; and there shall be a battalion muster at such time and place in the month of May, as the commandant of the regiment shall direct, when and where, every commissioned and non-commissioned officer, musician and private, belonging to the battalion, shall attend, armed and equipped as the law directs: *Provided*, That where the colonel shall order the lieutenant colonel or major to attend such battalion muster, it shall not be the duty of such colonel to attend the same. There shall be two company musters held in each and every year, at such time and place in the months of April and August, as the commandants thereof may appoint, when and where every commissioned and non-commissioned officer, musician and private, belonging to said company, shall attend armed and equipped as the law directs.

Battalion muster in May.

Comp. musters in April & August.

SEC. 20. At the several musters herein directed, the troops shall be exercised at least four hours in each day agreeably to the rules and regulations of the army of the United States; and at each muster the commandants of companies shall call the roll, and note all delinquencies, as well as to absentees, as to arms and accoutrements, and also as to refusal to perform the duties required when present, of all which he shall make out a correct statement, and return the same to the regimental court of assessment, next to be holden for the regiment.

Drill four hours.

SEC. 21. There shall be one regimental drill muster, in each and every year at such time and place, as shall be directed by the commandant of the regiment, to continue two days, when and where all the commissioned, non-commissioned and staff officers of each regiment shall attend: the commissioned officers to be armed with swords, fire arms and accoutrements; the non-

Reg'l drill 2 days.

Camp duty
at night.

Private un-
able to
equip.

Troop and
com. of ar-
tillery to
each reg't.

Com. of
light infan-
try, grena-
diers or ri-
flemen to
each battal-
ion.

Election.

commissioned officers with fire arms and cartouch boxes, or pouch and horn, and shall be trained and exercised agreeably to the rules and regulations of the army of the United States, except that the surgeon and surgeon's mate shall not be required to attend such drill muster for the purpose of being drilled and exercised, and shall perform camp duty at night if required so to do, by the commanding officer of such drill; and the commanding officer of the regiment shall cause the roll of such officers to be called on each day of the drill, and shall note all delinquencies, and lay a correct statement thereof before the next regimental court of assessment, which court shall have full power to assess fines on all such delinquents, as in other cases: *Provided*, That in all cases where it shall appear that a non-commissioned officer or private is unable to equip himself under the provisions of this act, it shall not be the duty of the officer, under whose command such person may be, to report him to the board of assessment for the want of the equipments provided for in this act.

SEC. 22. There shall be one troop of horse and one company of artillery attached to each regiment, when either or both of said companies can be raised with convenience, to be enlisted by voluntary enrolment, in such manner and under such restrictions, as may be directed by the commandant thereof; and there shall be one company of light infantry, grenadiers or riflemen to each battalion, when in the opinion of the field officers either of said companies can be raised, without reducing the district companies below the number of forty rank and file; said companies to be raised by voluntary enrolment in such manner as may be directed by the field officers of the regiment. And the commanding officer of the regiment, when any volunteer company shall be raised as aforesaid, shall direct an election to be holden for company officers as in other cases, and shall return

the names of the persons elected in like manner to the commandant of the brigade; and the said companies when organized, shall wear while on parade such uniform as may be agreed upon by a majority of the company. And when any captain of artillery, cavalry, light infantry, grenadiers or riflemen, shall enrol a person out of any company, he shall forthwith notify the commanding officer of such company, from which such person shall have been enrolled, in writing; and if it shall be made to appear, that such company has been reduced below the number of forty rank and file, the commanding officer of such volunteer company, shall order the person so enrolled back to the company from which he was enrolled. Every man so enrolled in such company shall continue in the same for five years, unless sooner discharged by the commanding officer thereof, and on failing to provide himself with the uniform agreed upon by his company, he shall pay a fine of fifty cents for every muster he may attend without such uniform; and such company shall be subject to the same rules and orders as the militia of this state; *Provided however*, That nothing in this act shall be so construed as to prevent the commandant of any volunteer company, from ordering them out for training, any number of days not exceeding four in each year, exclusive of the number of days directed by law; and for failing to attend any of said musters completely uniformed, armed and equipped, they shall be liable to the same penalties as for other musters: *Provided however*, That it shall not be the duty of the commanding officer of any volunteer company to report a list of delinquents to the regimental court of assessment from any muster, ordered by the commandant thereof, nor for any member of such volunteer company, failing to appear at any muster without being uniformed: but it shall be the duty of the officers of such volunteer companies, to meet at or near the several pla-

Uniform.

Continue in
light com.
5 years.

Extra days
of training.

Officers of
vol. corps
impose fines

Appeal.

Cavalry
how officer-
ed & equip-
ped.

Artillery
how officer-
ed & armed.

ces of mustering their respective companies, on the second Monday of November, and then and there proceed to levy a fine according to law on such persons as may have been delinquents at any such extra musters, as also for not appearing in uniform at any muster whatever; and it shall be the duty of such officers to make out a fair list of such delinquents, setting forth the cause and amount of such fine, which list shall be signed by the senior officer of such board, and delivered to the person who may be authorized to collect the the fines for the regiment, who shall collect the same in the same manner as in other cases, and pay the same over to the treasurer of such volunteer company under the same penalties and restrictions as in other cases: *Provided however*, That nothing herein contained shall prevent any person, who shall be fined as aforesaid, from appealing to the regimental court of appeals, which court shall certify such fines as they may have remitted to the collector.

SEC. 23. There shall be to each troop of horse one captain, two lieutenants, one cornet, four sergeants, four corporals, one saddler, one farrier, one trumpeter, and not less than thirty nor more than sixty privates. The commissioned officers shall furnish themselves with good horses, saddles, bridles and holsters, and shall be armed with a sword and a pair of pistols, and each dragoon shall provide himself with a serviceable horse, not less than fourteen hands and a half high, a saddle, bridle, holster, mailpillion and breastplate, and shall be armed with a sabre, pair of pistols and cartouch box, to contain twelve cartridges. There shall be to each company of artillery, one captain, two lieutenants and one ensign, four sergeants, four corporals, six gunners, six bombardiers, one drummer, one fifer and not less than twenty nor more than thirty-six privates. The commissioned and non commissioned officers shall be armed with a sword or

hanger, and each private with a sufficient musket or fusee, with a cartouch box to contain twenty four cartridges, fitted to the caliber of his musket or fusee; and there shall be one piece of artillery to each company. To light infantry, grenadier and rifle companies, there shall be one captain, one lieutenant and one ensign, four sergeants, four corporals, one drummer and one fifer, and not less than forty and not more than one hundred privates. The commissioned officers shall be armed with swords or hangers, and each member of such light infantry and grenadier company shall be armed with a sufficient musket, bayonet and belt, with a cartouch box to contain twenty four cartridges, suited to the caliber of his musket or fusee, and each member of such rifle company, shall be armed with a good rifle, pouch and powder horn.

SEC. 24. Each company of artillery, cavalry, light infantry, riflemen, and grenadiers, shall meet and exercise with their respective regiments and battalions, as other militia companies are required to do, and shall meet in companies for company musters at the same times and under the same rules and regulations, that are required for company musters in other cases.

SEC. 25. That in all cases where it may appear to the field officers of any regiment, that it would be for the promotion of discipline to organize more light companies in any regiment than are authorized by this act, it shall be lawful for the commandant of such regiment, to authorize any person to raise and organize one or more light infantry or rifle companies in such regiment, which when organized shall be governed in all respects as other light companies are: *Provided however*, That no election shall be ordered for officers of such companies until such company shall have fifty members completely uniformed and equipped.

SEC. 26. All commissioned, non-commissioned

Other light
comp's how
officered.
armed, &c.

Light com-
panies shall
be drilled
with their
reg'ts, &c.

Extra mus-
ters of light
companies
authorized.

and staff officers, musicians and privates, shall appear and parade, as they shall severally be ordered by the provisions of this act, at ten o'clock A. M. on the several days of parade; and it shall be the duty of the adjutants of regiments to attend all regimental musters, regimental drill and battalion musters, and at the regimental and battalion musters, to call the roll of commissioned and staff officers, and at such drill muster to call the roll of commissioned, non commissioned and staff officers, and note the delinquencies, whether as to absentees, uniforms or arms and accoutrements, and make return thereof to the next regimental court of assessment.

Major gen'l SEC. 27. It shall be the duty of major generals to visit the respective regiments in his division once in three years, and give such directions for disciplining the troops as he may deem necessary; and it shall be the duty of the brigadier general, to visit the respective regiments in his brigade, once in two years, and give such directions for disciplining the troops as he may deem necessary.

Fines of commandants of division. SEC. 28. The following forfeitures and penalties shall be incurred for delinquencies, to wit: By the commandant of a division for neglecting any of the duties enjoined on him by this act, not less than twenty nor more than two hundred dollars;

Brigade. by the commandant of a brigade for neglecting any orders of his superior officers, or any other duties enjoined on him by this act, not less than fifteen, nor more than one hundred and fifty dollars;

Feld officers by the commandant of a regiment for neglect of any orders of his superior officers, or any of the duties enjoined on him by this act, not less than ten nor more than one hundred dollars; by a lieutenant colonel or major for any neglect of the orders of their superior officers, or any of the duties enjoined on them by this act, not less than eight nor more than eighty dollars; by the commandant of a company for neglect of any orders of his superior officers, or the duties enjoined

Company officers.

ed by this act, not less than five nor more than fifty dollars; by subaltern officers for neglect of the orders of their superiors, or the duties enjoined by this act, not less than four nor more than forty dollars; by the adjutant general, or quarter master general, or either of the aids-de camp of the commander in chief, for neglect of the orders of their superior officer, or any of the duties enjoined on them by this act, not less than ten nor more than one hundred dollars; by an aid-de-camp of a major general or brigadier general, division quarter master or inspector, or brigade quarter master or inspector, for neglect of any orders of their superior officers, or any duties enjoined on them by this act, not less than eight nor more than eighty dollars. All other staff officers shall, for any neglect of duty on their part, be subject to the same forfeitures and penalties as officers of like rank for similar offences. By a non commissioned officer, or non commissioned staff officer, for neglect of any duty enjoined on them by this act, not less than two nor more than twenty dollars; by a musician or private for failing to attend any regimental muster during the whole time the same shall be on parade, one dollar; and for failing to attend any battalion or company muster the whole time the same may be on parade, fifty cents; by an officer for failing to attend with arms as is required by this act, if a general officer, any sum not exceeding ten dollars; if a field officer, any sum not exceeding eight dollars, if a company or regimental staff officer, two dollars; by a non-commissioned officer or private, for attending any muster of his regiment, battalion or company without a sufficient rifle, musket or fusee, twenty-five cents, and for attending any of the musters aforesaid, without a cartouch box or powder horn and pouch, twelve and a half cents; and the fines and forfeitures herein prescribed, shall be assessed, levied and collected as is in this act provided. Any person under the age of

Staff of com
in chief.

Staff of gen.
officer.

Non com-
missioned
officers.

Musician or
private.

Fines for
appearing
on parade
without
arms.

Fines of minors to be paid by fathers, guardians, or masters.

twenty-one years, who is subject to the control of father, guardian or master, fined in pursuance of the provisions of this act, such father, guardian or master shall be bound to pay such fine, which shall be collected in the same manner, as though such father, guardian or master had been the delinquent.

Next in rank take command.

SEC. 29. All officers of every grade, shall implicitly obey the orders of their superiors, and in case of absence, death or inability of any officer, the officer next in rank shall take the command & discharge all the duties required by this act of his superior, during such absence, vacancy or inability.

Persons may be put under guard 12 hours.

SEC. 30. If any non-commissioned officer, musician, private or bye-stander, at any muster or meeting of officers required by this act, shall misbehave or insult any officer or soldier, the commanding officer may order such person under guard, for any length of time not exceeding twelve hours, and shall report such person to the next court of assessment, which court may fine him in any sum not exceeding five dollars.

Officers misbehaving may be cashiered, &c.

SEC. 31. If any officer at any regimental review, or on any other occasion, when the regiment, battalion or company to which he belongs, or any detachment, or part thereof, in which he may hold a commission, shall be paraded in arms or at any drill muster or at any other meeting of the officers, shall misbehave or demean himself in an unofficer-like manner, or shall neglect or refuse to obey any of the orders of his superior officers, he may for every such offence be cashiered or suspended, or fined agreeably to the provisions of the twenty-eighth section of this act.

Judge advocates and provost marshalls appointed by court martials,

SEC. 32. Judge advocates and provost marshalls shall be appointed by the court martials, that may be hereinafter authorized for the trial of officers by the provisions of this act. It shall be the duty of the judge advocate to take and keep severally, a true statement of all proceedings,

whether pleadings, evidence or defences, made before a court martial; a fair copy of which, after having been signed by the president, shall be delivered to the officer ordering the court martial within twenty days after their adjournment, and to prosecute for the state: but the judge advocate shall so far consider himself counsel for the person accused, as to object to any leading question being put to the prisoner or any witness, the answer to which might tend to criminate himself. The provost marshal shall attend and execute the orders of the court.

Judge advocate proceedings of court martial.

Prosecutor

SEC. 33. Courts martial shall be appointed for the trial of all officers for neglect of duty, disobedience of orders, disorderly or ungentlemanly behaviour, while on parade or on duty.

SEC. 34. General courts martial shall be ordered by the commander in chief, when he may think it necessary, where a major general shall preside, and be composed of twelve additional members, two of whom at least shall be brigadier generals, and the others field officers.

Gen. courts martial how ordered and constituted.

SEC. 35. Division courts martial shall be appointed at the discretion of the major general, when a brigadier general shall preside, and be composed of twelve additional members, two of whom at least shall be colonels, and a majority of the others field officers.

Division courts martial.

SEC. 36. Brigade courts martial shall be appointed at the discretion of a brigadier general, when a colonel shall preside, and be composed of twelve additional members, two of whom at least shall be field officers.

Brigade courts martial.

SEC. 37. Regimental courts martial shall be appointed at the discretion of commandants of regiments, when a lieutenant colonel or major shall preside, and be composed of six additional members, two of whom at least shall be captains.

Regimental courts martial.

SEC. 38. In all courts martial, whether general, division, brigade or regimental, when the full number of officers that may be summoned, shall

Majority of
members a
quorum.

Proceed-
ings by
whom ap-
proved, &c.

fail to attend, the court shall proceed to trial, provided a majority of the members shall attend, that may be summoned on said court: *Provided also*, That no exception or challenge may be made to the president, but may be made to any other member for good cause shewn, to the satisfaction of said court. The proceedings of any of the courts martial ordered under this act, shall be approved or disapproved by the officer ordering the same, and in case the sentence is disapproved, he shall return the proceedings to the president of the court, with his objection, within twenty days, who shall again convene the court and proceed to reconsider the same, and if thereupon they shall adhere to their former opinion, the sentence shall stand confirmed; and the officer ordering the court shall issue his order dissolving said court, and publishing the sentence thereof, subject however to an appeal to the officer next highest in rank, and in case of a division court martial to the Governor, for their final affirmation or reversal:—*Provided*, That the sentence of any court martial shall not be reversed or set aside for the want of any formality or particular form of proceeding, or the use of any technical term: *Provided also*, That it may appear from the face of the proceedings of said court, that the party or parties had a fair and equitable trial on the merits of the case.

Courts mar-
tial, their
jurisdic-
tion.

SEC. 39. In general courts martial, none shall be tried below the grade of a general officer, or the adjutant or quarter master general. In division courts martial, none shall be tried below the grade of a field officer or division staff: in a brigade court martial, the field officers and brigade staff may be tried, or a captain for good cause shewn: in regimental courts martial, all officers below the grade of a field officer, as well as the regimental staff officers shall be tried.

President
administer
oath.

SEC. 40. Upon the convening of either of the courts herein directed, the president thereof shall administer to the judge advocate, the following

oath or affirmation: "You do solemnly swear or affirm that you will truly and faithfully execute the office of judge advocate, to this court so long as you remain in office, to the best of your abilities, and according to the laws of this state and of the United States, and that where secrecy is required, you will not disclose or discover the opinions of any court martial wherein you serve, unless to the commanding officer, until he has approved or disapproved thereof; nor will you at any time disclose or discover the opinion of any particular member of the court martial, unless required to give evidence in a court of justice:—" Which oath shall be deemed a competent qualification to such judge advocate whilst he continues to act; and the judge advocate shall proceed to qualify the president and members, by administering to them the following oath or affirmation, viz: "You and each of you do swear (or affirm) that you will well and truly try and determine according to evidence, agreeably to justice and the best of your understanding, and the laws of this state and of the United States, between the state of Indiana and the prisoner to be tried, and that you will not disclose the opinions of this court martial, when secrecy may be required, until made public by the proper officer; nor will you at any time disclose the vote or opinion of any particular member thereof, unless called upon to give evidence by a court of justice."— Whereupon the court shall proceed to the business laid before them, and adjourn from day to day until it is finished; of which a complete record shall be made and signed by the president, and the court shall be adjourned. Upon the disclosure of the opinion or sentence of any court martial, any person may according to the directions of this act, appeal therefrom, by filing a written notice with the officer to whom the appeal is made, within thirty days after the sentence is published, whose duty it shall be to order up be-

Judge advo-
cate admin-
ister oath.

Record.

Appeal.

fore him the proceedings of such court for a final decision, which shall be given within thirty days thereafter: *Provided however*, That if a majority of the officers ordered on any court martial under the provisions of this act, should fail to attend, that such officers as may attend, shall adjourn to any day not exceeding ten days at any one time, and compel the attendance of absent members.

SEC. 41. Any person having cause of complaint against any commissioned officer, shall lodge with the commander in chief, major general, brigadier general, or commandant of a regiment, (as the case may be) the charges certified in form, and make oath before a judge advocate, or justice of the peace, that the charges, which he is about to exhibit, are true to the best of his knowledge and belief; upon which an enquiry or arrest, at the discretion of such officer having the power to order the same, may be awarded: *Provided*, That from the time of an arrest, the court martial shall be ordered to meet within thirty days, of the time and place of which the officer arrested shall have at least fifteen days notice, as well as a copy of the charges exhibited against him: And *provided also*, That if upon the meeting of such court, it shall appear from the absence of witnesses, inability or sickness of the parties, or for any good cause shewn, a fair and impartial trial could not then be had, they may adjourn the court, to a future day, not exceeding three months at any one time.

SEC. 42. The commanding officers of regiments, are hereby authorized and directed to call courts martial or courts of enquiry at any time, when it may appear necessary to try persons failing to do duty, or delinquents of any description, or persons failing to perform tours of duty when called on for that purpose, or for the trial of any non-commissioned officer or private, who may hereafter desert from the service of the United

Minority of officers, compel attendance of absent members.
Charges against officers, how exhibited.
Enquiry or arrest.
Court martial ordered within 30 days.
Notice.
Special reg'l courts martial.

States or this state, or to excuse any person disabled, or for other cause from doing militia duty during their inability: *Provided*, That nothing herein contained shall be so construed, as to alter the time of the annual meeting of the court of assessment.

SEC. 43. The judge advocate of every general, division, or brigade court martial, which may be instituted under the provisions of this act, shall be allowed the sum of one dollar per day, by the said court, which shall be certified by the president thereof, and each witness attending on such court, shall be allowed fifty cents per day for such attendance, with an addition of six cents per mile for going to and returning from said court. The provost marshal for attending such court, shall be allowed one dollar per day, to be certified as aforesaid, which shall be paid out of the fund created by fines for delinquencies of the division, brigade or regiment, (as the case may be) to which the officer or private, who may be tried, shall belong.

SEC. 44. A court for the assessment of fines and receiving the returns of delinquents, shall be held for each regiment, on the first Monday in November in every year, which court shall be composed of a majority of the captains of such regiment, the oldest of whom present shall be president of the court: *Provided however*, That from a vacancy or absence of any captain, the next officer in rank in such company shall attend, which court, with the regimental judge advocate and provost marshal, may proceed to business; but in case the judge advocate fails to attend at any court of assessment, the court may appoint one pro tem.: all other commissioned company officers may attend, who ex-officio shall be members of said court, which court shall examine all returns laid before them, and order the delinquents called to shew cause why judgment should not be awarded against them, and deliver their opinion in every

Fees of judge advocate for attending courts martial.

Witnesses.

Provost marshal shall.

Courts of assessment of fines, when holden, and of whom composed.

Record of
proceedings.

case to the judge advocate, who is hereby directed to make a fair record thereof. They shall have power to adjourn from day to day to compel the attendance of absent members, and when their business is completed, the president shall sign the record of their proceedings, and the court for that year shall be dissolved. Provided, that previous to their proceeding to business, the president shall administer to the judge advocate, the following oath or affirmation: "You do solemnly swear (or affirm) that you will truly and faithfully execute the duties of judge advocate to this court, so long as you remain in office to the best of your abilities, and according to the laws of this state;" which oath shall be deemed competent to such judge advocate whilst he continues to act.—The judge advocate shall then proceed to qualify the members, by administering to them the following oath: "You and each of you do swear (or affirm) that you will truly and diligently enquire of, and decide upon the several delinquencies reported to you, and in every case decide according to law and the best of your skill and understanding, without favour or hope of reward; so help you God."

List of persons
fined, &c.

Copy set up.

Court of appeals,
when,
and by whom
holden.

SEC. 45. The judge advocate shall make out separate lists of the persons fined in each company, at the regimental court of assessment of fines, setting forth the particular causes for which each individual was fined, with the amount thereof, which he shall cause to be delivered to the commandants of the proper companies within ten days after such court; a copy of which, the said commandant shall forthwith cause to be set up at the usual place of mustering his company, noting therein the time and place of holding the court of appeals: and it shall be the duty of the colonels, lieutenant colonels and majors to meet at or near the usual place of holding the regimental musters of their respective regiments as early as may be convenient on the first Monday of December an-

nually, and they or any two of them shall proceed to hold a court of appeals, at which the judge advocate shall attend and record the proceedings, and lay before the said court the proceedings of the last court of assessment. In cases where it shall be made appear to the satisfaction of said court, that justice has not been done before the court of assessment, they shall have power to remit the fines assessed by said court, as well as in cases where the party failed to attend any muster in consequence of the sickness of himself or family; or where he was absent from home on necessary business, or where any unavoidable accident has prevented his attendance. If the regimental judge advocate fail to attend any court of assessment or court of appeals, such court shall appoint a person to perform the duties required of him. Whenever it shall happen that the court of assessment or court of appeals, shall neglect or fail to meet and perform the duties enjoined on them by this act, at the times specified in the same, it shall be the duty of the commandant of the regiment, at any other time, to order said court to meet and to cause the companies of his regiment to be notified of such meeting, by advertising the same in one or more public places in each company, and the court of assessment or appeals (as the case may be) when met as last aforesaid, shall be invested with the same power and be subject to the same rules, as though such court had met at the time pointed out in the foregoing provisions of this act.

SEC. 46. It shall be the duty of each regimental judge advocate to make out two fair lists of the names of the persons fined in their respective regiments, whose fines have not been remitted by the regimental court of appeals with the amount of the fine or fines assessed on each individual, which said lists shall be certified, signed, and sealed by the commandant of such regiment, and attested by the judge advocate thereof; one of which lists

Special courts
of assessment
and of appeals
to be ordered
by command-
ant of reg't.

Lists of fines
not remitted,
to be delivered
to pay-
master and
sheriff.

shall be by the judge advocate delivered to the paymaster of the regiment to be by such paymaster kept to enable him to settle with the collector and for the use of those who may be concerned in the same. The other list shall be delivered to the sheriff of the proper county, where such delinquents may reside: and such sheriff shall be bound to receive the same and to collect the fines therein specified, under the same law, rules and regulations, as he would if the said list was an execution regularly and legally issued from the circuit court, on a regular and legal judgment against the goods and chattels, lands and tenements of such delinquent or delinquents: and further, such list shall not only operate as a *fiere facias*, but shall in each and every stage thereof, legally, fully, completely, and to all intents and purposes, operate as a writ of *fiere facias*, *venditioni exponas*, and *capias ad satisfaciendum* as the sheriff may have necessity to use it, during the progress of the collection of such fine or fines, and such sheriff shall make return of all such lists so delivered to him, together with his proceedings thereon to the paymaster of such regiment in ninety days from the date of the same.

Sheriff make
return in 90
days.

Alias list.

SEC. 47. If such sheriff should fail to collect such fine or fines on the first list so delivered him, or any part thereof, the paymaster shall give notice thereof to the judge advocate, who shall issue an *alias* or *pluries* list of all such fines or parts of fines, as may remain uncollected, and deliver the same to the proper sheriff, who shall proceed thereon as in the first of such lists, and any such *alias* *pluries* or other list shall have the same force and effect, as the first of said lists had.

Sh'ff pay over
to paymaster.

SEC. 48. It shall be the duty of such sheriff, at the time he returns such lists, or any of them, to the paymaster, to pay over to such paymaster, all monies by him collected thereon, and take such paymaster's receipt therefor, which receipt

shall specify the amount so paid over, and from whom collected and what for; which receipt, or a true copy thereof, shall be left with the judge advocate by such sheriff.

SEC. 49. It shall be the duty of such sheriff when he collects any such fines, to collect from each delinquent, the sum of ten per centum on the fine: and also the costs of advertising, if such sheriff has to advertise and expose to sale any of the estate of such delinquent, which said ten per centum, the sheriff may keep as his fees, which together with such costs for advertising, shall be in full for all services in the performance of such collections: *Provided however*, that if such sheriff does not collect the fines aforesaid, from such delinquents, he shall receive no compensation whatever.

Sh'ff ten per
cent. &c.

SEC. 50. If any sheriff shall fail to make return of any such list or lists so delivered to him as aforesaid, on the return day thereof, or shall fail to pay over any monies by him collected thereon, it shall be lawful for the paymaster of such regiment to appear at the next circuit court of the proper county and then and there move said court for a judgment in his favour for the use of such regiment, against such sheriff and each of his securities, at the same time, for the whole amount of the fines contained in such list or lists, or the monies so collected and not paid over, (as the case may be) together with ten per centum damages thereon and interest, together with the costs of such motion: and if such court is satisfied that such sheriff and his securities have had ten days notice of such motion, the court shall render judgment in favour of such paymaster, for the use of such regiment, against such sheriff and each of his securities, for the whole amount of the fines contained in such list or lists, or money so collected and not paid over as aforesaid, (as the case may be) together with ten per centum damages thereon, interest and

Paymaster
may move
against sh'ff.

costs of such motion, on which judgment execution shall issue returnable in thirty days from the date thereof.

Persons conscientiously scrupulous.
Fined.
Appeal.
Such fines how collected
 SEC. 51. In all cases where there may be persons conscientiously scrupulous of bearing arms, it shall be the duty of the commanding officer of the company, in whose bounds such conscientious persons reside, to make a list of all the names of such persons, which list shall be signed by such commanding officer, and delivered annually to the regimental court of assessment of fines, who shall assess a fine on such persons, as near as may be to the lowest fine imposed upon persons for refusing or neglecting to attend the battalion, company and regimental musters: *Provided however,* That nothing herein contained shall be so construed as to prevent such persons from making any defence, that might be made by any other person: And *provided also,* That such conscientious scrupulous person may take an appeal to the regimental court of appeals as in other cases: And *provided also,* That such conscientious persons shall not be taken and made a part of the numerical force in the company in whose bounds they reside in time of peace, but shall constitute and form a part of the numerical force of such company, when called upon to furnish men for service, and it shall be the duty of the commandants of companies, at all times when they shall make a return of the strength of their respective companies, to deliver to the commandant of the regiment a list of all such conscientiously scrupulous persons, as may reside in the bounds of his company, and it shall be the duty of the commandants of the regiments to enter the same in a book, & to make a detail on such company accordingly.

SEC. 52. The list of fines, thus assessed by the court of assessment of fines, shall be recorded in the regimental book, separately and apart from other fines; and it shall be the duty of the judge advocate to make out three fair lists of the fines so

assessed as aforesaid, and not remitted by the court of appeals, and the senior officer of the court of appeals, shall sign and seal the same and deliver one list to the paymaster of the proper regiment, and transmit one to the Treasurer of state, and deliver one to the sheriff of the county, where such conscientious delinquents may reside; and such list, so signed as aforesaid, shall be a sufficient warrant for the sheriff to proceed and collect such fines in the same manner and under the same restrictions as is provided for by this act in other cases; and in all cases where the sheriff shall sell the property of such persons, and any residue shall remain in his hands after paying such fine as aforesaid, with legal costs, and the owner of such property shall refuse to accept such residue, then it shall be the duty of the sheriff to pay the same over to the county treasurer, who shall credit such person therewith, & the same shall be applied to the use of such person in discharging his fine in succeeding years: and the sheriff on paying over the money aforesaid, shall deliver a written statement thereof, containing the names of the persons to whom the same belongs, with the amount due to each respectively, and shall take an oath that the statement is just and true to the best of his knowledge and belief, which oath or affirmation shall be written on or attached to the statement aforesaid, and filed by the county treasurer, who is hereby authorized to administer said oath or affirmation: and all monies collected under the provisions of this section of the act, shall be paid to the paymaster of the proper regiment as other fines are paid: and it shall be the duty of the paymaster to pay the same over to the Treasurer of state, to be applied as directed in the third section of the ninth article of the constitution of this state; and in all cases where the paymaster shall fail to pay over the monies so collected as aforesaid within sixty days after

Sh'ff to collect.

Sheriff to sell property of such persons.

Sh'ff pay over to paymaster.

Paymaster pay over to Treasurer of state.

he shall have received the same, he may be sued upon his bond as in other cases.

Property held
in common li-
able for fines.

SEC. 53. That when any person or persons conscientiously scrupulous of bearing arms, hold their property in common, it shall be the duty of the sheriff or collector to seize upon any property he may find in possession of such society, for the payment of fines due from the members thereof, and shall be regulated and restricted in all respects as is directed in the fifty-second section of this act.

Need not be
notified to
muster.

SEC. 54. That it shall not be the duty of commandants of companies to notify persons conscientiously scrupulous of bearing arms, of the time and place of holding any muster.

Paymasters,
their duties.

SEC. 55. The paymasters of regiments shall attend their regimental court of appeals, and lay before the board an account of the finances of the regiment, stating particularly all monies received and paid out; and shall give bond and security to the commandant of the regiment and his successors in the sum of two thousand dollars, conditioned for the faithful performance of his duty.

Bond.

Regimental
judge-advocate,
his duties.

The regimental judge advocate shall attend all courts of enquiry and assessment of fines, and courts martial held in their respective regiments, take minutes of their proceedings, receive all returns from the commandants of companies in the regiment, and shall record the names of the persons fined by the court of assessment, together with the cause and amount of such fine. And all judge advocates that may be appointed by the provisions of this act, are hereby authorized to administer any oath or affirmation, that may be necessary to carry into effect the provisions of this act.

May adminis-
ter oaths.

Compensa-
tion to judge
advocates.

SEC. 56. The regimental judge advocate shall be allowed ten dollars annually, as a compensation for his services required by this act: the drum and fife majors shall each be allowed the sum of one dollar per day, for each day they

shall attend any drill muster and regimental and battalion muster; and all other drummers and fifers, shall be allowed one dollar per day, for each days attendance at regimental, battalion, and company musters. The provost marshal shall be allowed one dollar per day for his attendance on any court of assessment, court of appeals or court to try contested elections, to be paid by the paymaster of the proper regiment, on the order of the commandant of the regiment. And all monies remaining in the hands of the paymaster, after discharging the above claims, shall be applied under the direction of the field officers, to purchasing drums and fives for the use of the regiment, and also to the procuring of regimental colours.

To drummers
and fifers.

To Provost
marshalls.

Money re-
maining, how
applied.

SEC. 57. It shall be lawful for commandants of companies, to discharge any person from militia duty, who may produce sufficient evidence to satisfy such officer, that he is forty-five years of age or upwards: and in any case where any officer shall be satisfied, that any person subject to militia duty, has a reasonable excuse for not attending any muster, he shall not be bound to return such person as a delinquent.

Persons over
age, how dis-
charged.

Persons hav-
ing reasona-
ble excuse,
need not be
returned as
delinquents.

SEC. 58. It shall be the duty of commandants of companies, to appoint their non-commissioned officers annually in the month of April, and to fill vacancies as they occur, and no person shall be compelled to serve as a non-commissioned officer, for a longer period than one year at any one time.

Comps. staff,
how & when
appointed.

SEC. 59. The following persons shall be exempt from militia duty: All ferrymen necessarily employed at a ferry on a post road; all preachers of the Gospel, regularly ordained or licensed according to the rules of their respective churches, during such time as they may continue in the exercise of the duties of their respective professions and occupations.

Who exempt?

SEC. 60. All persons wishing to be exempt from militia duty, on account of bodily infirmity or disability, may apply to the surgeon of the re-

Persons wish-
ing to be ex-
empt may ap-
ply to surgeon

Surgeon shall
certify to
court of as-
sessment.

President give
certificate of
exemption.

Persons ex-
empt not eli-
gible to office.

Uniform of
the army of
U. S.

Uniform of
reg'ts.

Commission-
ed and staff
officers armed
with swords.

Comp. re-
turn made

giment, whose duty it shall be to examine such applicant relative to his indisposition or disability: and if in his opinion, the person thus applying is unable to perform militia duty, he shall certify to the next regimental court of assessment, the name of the person thus applying, together with the nature of his complaint, and such court shall examine such applicant upon oath, and if in the opinion of said court, such person is unable to perform militia duty, the president of the court shall give him a certificate of exemption, until his complaint be removed: and in all cases, when a detachment may be ordered into service, it shall be the duty of the commandant thereof, (if required so to do,) to order a board of officers to convene and examine any applicant for such exemption; and such board shall be governed in all respects, as is directed in the foregoing provisions of this section.

SEC. 61. When any person shall be exempted from militia duty under the provisions of this act, he shall not be eligible to hold any office in the militia of this state.

SEC. 62. The uniform of the army of the United States shall be worn by all general and field officers, and by the general, division, and brigade staff, except such variations therefrom, as circumstances may render necessary. The commissioned officers of each regiment shall adopt a uniform to be worn by the officers of their respective regiments, which shall be approved of by a majority of all the commissioned officers, and the uniform so adopted, shall be worn on all days of muster and service: provided that any officer may wear the uniform prescribed for officers of like grade in the army of the United States. All general and field officers, and all general, division, and staff officers, and all company and regimental staff officers shall be armed with swords.

SEC. 63. The commandants of companies shall at their August muster, in each and every year,

make out a return of the strength of their respective companies, and after having copied the same in a book kept for that purpose, shall deliver the same to the commandant of the regiment, on or before the first day of September annually, and the commandants of regiments shall make returns of the strength of their respective regiments to the brigadier generals, on or before the first day of October annually, who shall make returns of the strength of their respective brigades to the major generals, on or before the first day of November annually, who shall make returns of the strength of their respective divisions to the adjutant general, on or before the fifteenth day of November annually.

SEC. 64. That from and after the first day of March next, it shall not be the duty of the adjutant general, to furnish blank forms of annual returns as heretofore, but the several officers whose duty it is to make annual returns, shall in making the same, be governed by, and observe the following forms.

out at August
muster.

Reg'l returns
to be made to
brig. gen'ls
first of Oct'r.

Brig. returns
to be made
the first Nov.

Division re-
turns to be
made 15 Nov.

Blank forms

Return of the

Regt. Indiana Militia, commanded by Col.

No. of battalions,	Field & staff officers.
Colonel,	
Lieutenant colonel,	
Major,	
Adjutant,	
Quarter master,	
Paymaster,	
Surgeon,	
Surgeon's mate,	
Judge advocate,	
Sergeant major,	Infantry.
Quarter master sergeant,	
Drum major,	
Pile major,	
Forage master,	
Captains,	
Lieutenants,	
Ensigns,	Riflemen.
Sergeants,	
Corporals,	
Musicians,	
Privates,	
Total,	
Captains,	
Lieutenants,	
Ensigns,	
Sergeants,	
Corporals,	
Musicians,	
Privates,	
Total,	Cavalry.
Captains,	
Lieutenants,	
Cornets,	
Sergeants,	
Corporals,	
Saddler,	
Farrier,	GRAND TOTAL.
Trumpeter,	
Privates,	
Total,	

Arms, Accoutrements and Ammunition.

	Muskets,
	Bayonets and belts,
	Cartridge boxes,
	Swords and belts,
	Fusees,
	Rifles,
	Pouches,
	Powderhorns,
	Cartridges,
	Loose balls,
	Spare flints,
	Lbs. powder,
	Colours,
	Espontoons,
	Drums,
	Fifes,
	Trumpets,
	Sabres, scabbards and belts,
	Pistols,
	Holsters,
	Horses,
	Knapsacks,
	6 pounder field pieces,
	Travelling carriages,
	Limbers and amm'n boxes,
	Trail handspikes,
	Sponges and caps,
	Rammers,
	Ladles and worms,
	Tompions,
	Implement straps,
	Lead aprons and straps,
	Water-buckets,
	Sets of wheel harness,
	Picoles and drag ropes,
	Lint stocks,
	Portfire stock .
	Tin tube boxes,
	Tin portfire cases,
	Powderhorns,
	Lbs. cannon powder,
	Rounds of shot,

List of staff officers in the

Regiment, Indiana Militia.

<i>Names.</i>	<i>Rank.</i>	<i>Date of Commission.</i>	<i>Remarks.</i>

Return of a company of *Cavalry*, commanded by Capt.

in the

Regt. Ind. Militia.

[illegible]

Return of a company of Artillery, commanded by Capt.

in the

Regt. Ind. Militia.

[illegible]

Adj't gen'l
keep his office
at seat of gov.
shall keep re-
cord, obey or-
ders, &c.

He shall
make return
of the strength
of the militia.

Forward du-
plicate of re-
turn to the
Sec'y of War.

Adj't gen'l his
salary.

Qr. master
gen'l keep his
office at seat
of gov't.

Keep arms.

Persons re-
sponsible for
arms.

SEC. 65. The adjutant general shall keep his office at the seat of government, and shall keep a fair record of all orders and communications, which he shall from time to time receive from the commander in chief of this state, and obey all orders from him relative to the duties of his office. He shall receive the annual returns from the officers commanding divisions, from which he shall make a return of the strength of the militia of Indiana, which he shall lay before the commander in chief, on or before the first day of December annually; a duplicate copy of which shall without delay, be forwarded to the Secretary of war of the United States; and it shall be the duty of the adjutant general, in all cases where the major general shall fail to make return of the strength of his division, agreeably to the provisions of this act to communicate the same to the commander in chief, who shall cause such major general to be arrested, and shall without delay convene a court martial for his trial.

SEC. 66. The adjutant general shall be allowed an annual salary of one hundred dollars, to be paid out of any monies in the treasury not otherwise appropriated.

SEC. 67. The quartermaster general shall keep his office at the seat of government. He shall keep a fair record of all orders and communications which he shall from time to time receive from the commander in chief. He shall keep or cause to be kept, all arms and military stores, which are subject to the orders of the commander in chief, and all arms furnished by the United States for the militia of this state, and shall cause them to be distributed as directed by law, and shall take receipts from the officers respectively to whom they may be delivered: and all persons to whom such arms may be delivered shall be held responsible for the same, except in cases of accident, or unless they can show said arms have been delivered to some officer or soldier entitled

to receive the same, and that a receipt has been taken therefor.

SEC. 68. It shall be the duty of the brigade inspector to attend the regimental musters in their respective brigades, and inspect the arms and accoutrements, and report deficiencies thereof to the brigadier general and execute his orders. The brigade inspector shall be allowed the sum of five dollars for each regiment he shall inspect, to be paid by the paymaster of the different regiments, upon the order of the colonel thereof.

SEC. 69. All commissions issued by the Governor for regimental officers, shall be transmitted to the commandant of the brigade to which such regimental officer belongs, who shall deliver the same to the officer commanding the proper regiment, who shall forthwith deliver such commissions to the persons entitled to the same; and every officer commissioned in pursuance of this act, shall within ten days after receiving his commission, and previous to entering on the duties of his office, take an oath to support the constitution of the United States, and the constitution of this state, and an oath of office, a certificate of which, shall be endorsed on the back of his commission by the person administering the same, and if any person receiving any such commission shall fail to take the oaths aforesaid, within the time herein provided, and give notice thereof within twenty days thereafter to the proper officer, whose duty it may be to order such election, he shall be considered as refusing such office, and the same shall be filled as in other cases; and the commandants of regiments are hereby authorized to administer the oaths prescribed in this section.

SEC. 70. It shall be the duty of the commanding officers of companies to make out a list of the whole number of men in their companies, in the following manner, to wit:—All those persons, who have not performed a tour of military duty,

shall be placed by lot first on the list; after them, those who have performed the lowest number of tours in the company lot, and so on, placing those of the lowest number of tours next on the roll, until all have drawn their numbers: and in case of any being absent or refusing to draw, the commanding officer shall draw for him or them absent or refusing, and when a draft is made on the company, the commandant shall begin with the first man on the roll, and call out the number required: and on a second draft, shall begin with the man on the roll whose name stands next to the last man of the former draft; and in this manner shall proceed through the roll: and when any person moves into the bounds of the company, if he produces to the commandant thereof, a discharge or certificate of a tour of duty performed by him, he shall be placed by lot amongst those who have performed like tours of duty, and if he produces no certificate of duty performed, he as well as those, who may from time to time arrive at the age of eighteen years, and be enrolled, shall be placed among those by lot, who have not performed a tour of duty: *Provided however*, That no such classification shall be made in any light company organized under the provisions of this act, but such companies shall be called into service together and under their own proper officers.

No such classification for light comp's.

Substitute admitted.

SEC. 71. Any person called on to serve a tour of duty, may be discharged therefrom, if he shall furnish a good, able bodied militia man as a substitute, to be approved by the commandant of the company under whom he may be ordered to march: and when a substitute shall be accepted of, the commandant of the company shall receipt for the same to the person furnishing such substitute, which shall be evidence to the officer from whose company such militia man was drafted, that he is entitled to a credit for the time such substitute was accepted, which credit shall be entered in a book kept for that purpose; and any per-

son, thus receiving a credit, shall not be called on to perform a tour of duty, until all the men in the company, to which he belongs, shall have received a credit for a like tour of duty, performed by themselves or substitutes.

SEC. 72. When the militia of this state shall be called into actual service, either by this state or the United States, all general, field and company officers, shall serve on tours of duty agreeably to their respective ranks as determined by law: and all regimental staff officers shall take tours of duty with the commandants of their respective regiments: brigade staff officers with their brigadier generals: and division staff officers with their respective major generals: and non-commissioned officers of companies, as follows, to wit: the first sergeant, first corporal and musicians, to take tour with the captains of their respective companies, the second and third sergeants and second and third corporals, to take tour with their lieutenants; and the fourth sergeant and fourth corporal, with the ensign: all which officers shall serve when called on, six months, if not sooner discharged.

Officers to perform tours of duty agreeably to rank.

Staff officers how to perform tours of duty.

Non-commissioned officers how to perform tours of duty.

SEC. 73. When any detachment of the militia shall be called into service, the captain or commandant of each company shall take care that his proportion of men are assembled and marched to the proper place of rendezvous, under the care of a commissioned officer or sergeant, with a list of the men: which list shall be delivered to the adjutant of the regiment, and he shall make a roll of the whole, the rank of the non-commissioned officers, and names of the privates; and when the detachment shall be completed and placed under the proper officer, he shall attend them to the place appointed for the meeting of the detachments of the brigade, where the several adjutants shall deliver to the brigade major or the officer appointed to command the whole detachment, a complete roll containing the names

Detachments of companies to be marched to place of rendezvous.

Adj't deliver a complete roll of detachment of brigade, &c.

Officers com'g
detachment,
make out 2
rolls, &c.

Desertion,
how punished

Officers to ap-
prehend de-
serters.

Refusal to
march, how
punished.

of the commissioned and non-commissioned officers and privates, composing the detachments from each regiment or battalion, and it shall be the duty of the officer appointed to the command of such detachment to cause two complete rolls to be made out and certified under his hand, one of which rolls he shall transmit forthwith to the adjutant general, and the other to the brigade inspector.

SEC. 74. If any non commissioned officer or private, shall desert whilst he is on a tour of duty, if a private, he shall be fined in any amount in the discretion of the court martial, by whom he may be tried, not exceeding one thousand dollars, nor less than ten dollars, to which may be added imprisonment not exceeding three months, and also be compelled to march on the next tour of duty, under the same penalties as the first: if a non commissioned officer, he shall be degraded and placed in the ranks and shall be liable to pay such fine as a court martial trying such non-commissioned officer, shall assess not exceeding one thousand dollars, nor less than fifty, and also be compelled to serve the next tour of duty as a private: and it shall be the duty of all commissioned officers in this state, to apprehend non-commissioned officers and privates, belonging to any detachment of this state then in service, who had not a written furlough signed by the commandant of his company and countersigned by the commandant of the detachment.

SEC. 75. If any non commissioned officer or private, after being legally notified, shall neglect or refuse to march on any tour of duty, armed and equipped as required by this act, unless notified that arms will be otherwise furnished, he shall forfeit and pay for every such offence, the sum of twenty dollars, for each and every month, he is by law required to serve on such tour: and it shall be the duty of the commandant of the company to which such delinquent belongs, within three days thereafter, to certify the same to

the commandant of the proper regiment or battalion, who shall, within ten days after receiving such notice, order a board of five commissioned officers to convene, and shall give five days notice of the meeting of such board, by written advertisement, set up within the bounds of the company where such delinquent resided, when notified, who shall hear and adjudicate on such delinquencies, and shall assess the penalty aforesaid, on each and every such delinquent, who does not render to such board a sufficient excuse for such delinquency; and it shall be duty of the judge advocate of the regiment, to attend such board and record all their proceedings: and in case of the absence or inability of such judge advocate, to attend said board, they shall appoint a judge advocate pro tem. who shall perform the duties aforesaid: and when said board shall have assessed any such fine, the commanding officer of the regiment shall issue his warrant, directed to the sheriff or coroner of the county in which such delinquent resides, or his property may be found, commanding him to levy and collect said penalty from the goods and chattels of such delinquent, after giving such notice thereof as is required by law, for the sale of property in other cases; and for want thereof, to take the body of such delinquent and commit him to the common jail of the county where he shall be kept in close confinement, unless the penalty and costs of imprisonment be paid: *Provided* that such person may be released from confinement upon his making oath or affirmation before some justice of the peace, that he is unable to pay the fine assessed as aforesaid, and that he has not secreted, made over, or conveyed away any of his property directly or indirectly, for the purpose of evading the law, and that he has not property to pay the fine; and if the person making oath or affirmation as aforesaid, shall wilfully depose or affirm any matter to be a fact, know-

Board of officers.

Judge advocate attend such board.

Fine how collected.

Body how released.

Subsequent
process.

Process when
and how re-
turned.

Form of war-
rant.

ing the same to be false, or shall in like manner, deny any fact, knowing the same to be true, he shall be deemed guilty of perjury, and on conviction thereof, shall be punished accordingly: And *provided also*, that the commanding officer of the regiment or battalion, at any time thereafter, order and cause to be issued a process against the goods and chattels of the person so discharged from imprisonment for the amount of such fine and costs, in the same manner as is directed by the forgoing provisions of this section, which warrant shall be made returnable to the judge advocate of the regiment, in sixty days from the date of said warrant, and in case said warrant shall be returned unsatisfied for want of property, the commanding officer may, from time to time, issue new warrants in like manner, until the same shall be satisfied.

SEC. 76. The warrant to be issued, agreeably to the preceding section, shall be as near as the case will admit of, in the following form, to wit:

State of Indiana, county set.

To the sheriff of said county, GREETING:

Whereas at a board of officers of the regiment of the division of Indiana militia, convened at on the day of to hear and adjudicate on delinquencies, a fine of dollars was, by the judgment of said board, assessed upon A. B. (a sergeant, corporal, private, as the case may be) of the company of said regiment, for neglect of duty, as appears of record, whereof execution remains to be had, you are therefore commanded, that of the goods and chattels of the said A. B. within your bailiwick, you cause to be levied and made, the sum of dollars, together with your own fees for collection; and for want of sufficient goods and chattels, you are commanded to take the body of the said A. B. if he may be found in your bailiwick,

and him commit to the jail of said county, there to remain until the fine or fines and fees aforesaid are paid, or he be otherwise discharged by due course of law, and the fine aforesaid to pay to the paymaster of the said regiment, taking his receipt therefor; and make return of this writ with your doings thereon to the judge advocate of the regiment within sixty days from this date. Given under my hand and seal at this day of

SEC. 77. If any non-commissioned officer or private, shall absent himself from the bounds of his company district and thereby evade a draft or tour of duty, he shall immediately on his return within such bounds, be notified to hold himself in readiness to march on the next tour: and if he shall neglect, or refuse to perform the next tour of duty, after being notified of the time and place of rendezvous, by a written notification left at his last place of residence, in said company district, in case he cannot be found, he shall be subject to the same penalty, that is inflicted in the seventy sixth section of this act, which shall be collected in the same manner.

Persons evad-
ing a draft,
how dealt
with.

SEC. 78. When any sheriff or coroner shall collect any such penalty, he shall immediately pay the same to the paymaster of the proper regiment and take his receipt therefor, on the back of the warrant, and return the said warrant to the judge advocate of the regiment, with his doings thereon, as commanded; and in any case any sheriff or coroner shall neglect or refuse to serve such warrant, or make return of the same, or pay over any money by him thereon collected, as aforesaid, the judge advocate of the regiment shall make a motion in writing to the next circuit court in the proper county against such sheriff or coroner, setting forth the facts of the case; and provided said sheriff or coroner shall have four days notice of said motion, together with a copy of the same, the court shall at the same term, proceed

Sh'ff pay over
penalties to
paymaster.

For refusal,
how dealt
with.

4 days notice.

to render judgment against such sheriff or coroner, for the amount of the warrant, with twenty-five per centum on the same, together with interest; and the record of said board of officers and the testimony of the judge advocate, paymaster, or other parol evidence of such delinquency, shall be sufficient for said court to render judgment upon: from which judgment there shall be no appeal.

Fines for refusal to perform tours of duty, placed to the credit of companies.

Commandant may hire substitutes.

SEC. 79. All fines collected from persons legally enrolled in any company, neglecting or refusing to perform a tour of duty, shall be paid into the hands of the paymaster of the regiment and by him placed to the credit of the proper company from which such fines were collected, and where the commandant of a company shall be required to furnish his quota and draft, he shall, if practicable, hire substitutes to make up any deficiency which may happen from the refusal of any person drafted to perform a tour of duty, to the extent that the funds, in the hands of the paymaster in his favour, will justify: *Provided*, that he shall not in any case, give more than twenty dollars per month for a substitute: and in case substitutes cannot be procured to make up such deficiency, the commandant of such company shall proceed to draft until his quota is furnished, and so on in succession, until his company is gone through, and when all the men in his company have been called on to serve a tour of duty, the commandant of such company shall certify the same to the commander of the regiment, and the commandant of such company shall not again be required to furnish any quota of men by draft, until all the companies in the regiment are in like manner gone through, and all the privates therein have been called upon to perform a tour of duty.

SEC. 80. If any suit or suits shall be brought or commenced against any person or persons for any thing done in pursuance of this act, the de-

fendant may plead the general issue, and give this act and the special matter in evidence. This act may be given in evidence, &c.

SEC. 81. The persons of all non-commissioned officers and privates, who shall actually perform a tour of duty, shall be exempt from arrest, and their property from distress and sale, under any civil process from the time they are legally notified to march on a tour of duty, and until they shall have reasonable time to return to their respective homes. Person & property exempt, during tour of duty.

SEC. 82. When any commandant or staff officer shall resign or go out of office, it shall be his duty to deliver to his successor all the books, papers and records, that may be in his care or possession relative to said office, and any person failing to comply as aforesaid, shall pay any sum not exceeding five hundred dollars, nor less than one hundred dollars, to be recovered in any court of record in this state, at the suit of the commandant of the regiment. Officer deliver to his successor books, papers, &c.

SEC. 83. The militia of this state, when in actual service, shall be subject to the same rules and regulations, as the armies of the United States, and shall receive the same pay and rations: *Provided*, upon any transgression of either officer or private, against such rules and regulations, the offender shall be tried and sentenced by a court martial of the militia officers of this state only, if practicable to convene the same. Militia when in service, subject to the rules and regulations of the army of the U. States.

SEC. 84. When any necessary expenses shall accrue in carrying into effect the provisions of this act, for the payment of which no provision is herein before made, the same shall be paid out of the contingent fund, upon the order of the commander in chief. Expenses not provided for, to be paid out of the contingent fund.

SEC. 85. Every officer who shall hereafter accept a commission in the militia, shall serve five years: *Provided however*, that for good cause shewn, the commander in chief may receive the resignation of a general officer, and in like manner, the major general may receive the resigna-

Officers serve 5 years, except, &c.

tion of a brigadier general or field officer; and the brigadier general may receive the resignation of a field or company officer; and in all cases the officer accepting a resignation, shall endorse on the back of the commission, the cause for which such resignation was accepted, and return the commission to the person so resigning, and at the same time take proper measures for filling the vacancy.

Rules army U.
States.

SEC. 86. The militia of the state of Indiana thus organized, shall, at all times when under arms or on duty, be governed by the rules and regulations of the armies of the United States, except otherwise directed by this act.

Former laws
repealed.

SEC. 87. All laws heretofore in force in this state relative to the militia thereof, are hereby repealed: *Provided however*, that nothing herein contained shall be so construed as to prevent the recovery of any fines, which may have been incurred under any former act; but all fines incurred and money that may be due, under any former act, shall be recovered in the same manner as if this act had not been passed.

This act to be in force from and after its passage.

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